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WASHINGTON NOTES

THE COLORADO COAL REPORT

The Colorado Coal Commission, which was appointed to deal with the labor differences in the coal fields of Colorado during the years 1914 and 1915, has just presented a report to the President (House Doc. No. 859, 64th Cong., 1st sess.). The Commission's report reviews the general conditions in Colorado with reference to arbitration and conciliation, the checking of weights at coal mines, and the question of discrimination because of membership in labor organizations. It constitutes an interesting contribution to the question of arbitration and conciliation, affording a study of the special conditions prevailing in an important field. Since the Coal Commission was created, the state of Colorado has passed three laws which have an important bearing upon the situation as it exists today: (1) a law creating an industrial commission, with large powers of mediation and investigation in relation to all industrial disputes; (2) a workmen's compensation law; and (3) a law allowing the formation of mutual insurance companies for the purpose of insuring under the Workmen's Compensation act. The Colorado mining laws provide for checkweighmen to be selected and paid by the men mining coal. The state industrial commission has been receiving the full co-operation of the state mine inspector's office in investigating every complaint under this head. The industrial commission not only investigates complaints as to the checkweighmen, but it goes to the bottom of every complaint as to the short-weighting of coal in any form whatever.

So far as the creation of a board of conciliation on which both operators and miners are to be represented, and the absence of discrimination on account of membership or non-membership in any labor organization are concerned, the Commission reports that the situation in Colorado, in this respect, is dominated by the plan put into operation by the Colorado Fuel and Iron Company about October 1, 1915, for the regulation by contract of the relations between the company and its employees.

Colorado is the first of the states of the Union to grant to its industrial commission the powers of compulsory investigation which are granted by the Canadian act as to all "industries affected with a public interest"; but this power does not extend to compulsory arbitration. The provisions contained in the Canadian act which forbid either a strike or a lockout for thirty days while an investigation of the case is pending, but which leave either party free to act as it pleases after investigation, are

contained in the Colorado act; but the Colorado act, as interpreted by the industrial commission, goes even farther; for it is held to make the same methods applicable to all industrial disputes arising in any industry, thereby taking the advanced position that the public is vitally interested in every industry and that the abrupt stoppage of any industry is a menace to public welfare. By reason of these provisions of the law the industrial commission of Colorado has been able already to avert a number of strikes and to bring about mutual satisfactory settlements in a number of cases without any interruption to industry from either side.

The Commission reports that the Colorado Fuel and Iron Company has taken a step toward the definite adjustment of grievances on the part of employees, and that the essential features of the plan as now in effect are (1) that the relations between the company and its employees, as a body, are defined by contract; (2) that every employee is guaranteed the right to belong to a labor union or not, as he pleases; and (3) that the men in each mine under this contract are entitled to choose their own representatives, these representatives being protected against abuse by the company by a clause in the contract which entitles them (if they think that they have been subjected to discrimination because of their action as representatives of the men) to appeal to the industrial commission of the state; and the contract binds the company on this point also to accept as final the finding of the state industrial commission. The contract provides that any miner having a grievance, or any group of miners, may appeal from one authority to another until the president of the company is reached. The influence of this provision, although the contract has been in operation so short a time, is said to have been greatly to modify the attitude of the mine foremen, superintendents, and subordinate officials.

The temptation to be arbitrary is greatly lessened when an official knows that an appeal will lie from his decision, and the company is already finding that an increasing number of complaints are adjusted locally. The plan provides further for the selection of four joint committees representative of the company and of its employees: (1) on industrial co-operation and conciliation; (2) on safety and accidents; (3) on sanitation, health, and housing; and (4) on recreation and education. This part of the plan went into operation only with the beginning of the year. It evidently contemplates far-reaching co-operation between the employees as a body and the corporation as to all matters which affect the working and living conditions of the employees. It assumes co-operation between the parties and not antagonism.

The Commission offers a considerable number of interesting observations with reference to the industrial or manufacturing conditions in the Colorado field. "The most serious drawback to the prosperity of the coal industry in Colorado," it says, "is the lack of market. When we take into consideration that in 1910 the coal mines of Colorado produced over 12,000,000 tons, while in 1915 the production did not reach quite 9,000,000, despite the calling off of the strike and the general increase in business throughout the country during the latter half of 1915, we appreciate the fact that an adequate market does not at present exist." This alleged lack is assigned in part to the failure of railroads to co-operate freely, and in part to other factors.

THE TRADING-STAMP DECISIONS

Important decisions have been rendered by the Supreme Court of the United States in the so-called trading-stamp cases (*Rast v. Van Deman and Lewis*, No. 41; *Pitney v. Washington*, No. 242; and *Tanner v. Little*, No. 224). In these cases the court passes definitely upon the practices of certain individuals who were in the habit of using the so-called trading stamp as a means of advertising or promoting the sale of goods. Controversy as to the validity or constitutionality of the trading stamp is an old one, and the decision now rendered is probably the most important that has thus far been offered in connection with the matter. In general the position of the court is adverse to the use of the stamps as a method of advertising—an outcome likely to affect many retail businesses throughout the country which have made large use of the plan.

Perhaps the most interesting of the cases now decided is that which grows out of the recent statute of the state of Washington. That state has passed an act imposing an extremely high license tax upon all concerns resorting to the use of the trading stamp. In attacking the statute in question it was contended in substance that the statute of Washington violated the provisions of the Fourteenth Amendment to the Constitution of the United States in that it deprived complainants of their property without due process of law and of the equal protection of the laws; (a) because it was not equal and uniform in operation, each of the complainants paying their taxes as do other merchants who are engaged in similar lines of business and who use other and various methods of advertising and who are not required to pay a license tax—wherefore the statute, it was argued, was arbitrary and discriminatory; (b) because the tax was not upon the business of the complainants but upon their incidents and so was an unwarrantable interference with the method and

manner of conducting the same, being arbitrary, oppressive, discriminatory, in excess of profits, and prohibitive, and, while nominally seeking revenue, able to produce none; (c) because it deprived complainants of their liberty and property without due process of law inasmuch as they could not offer a gift, or give an order upon another merchant for a gift, to a customer, in exercise of a "natural right," without paying an onerous and excessive tax; (d) because the penalties and fines were so drastic and excessive as to deter the complainants from violating the act and so testing its validity in a court of law; (e) because the statute was in contravention of Art. I, sec. 10, of the Constitution of the United States in that it impaired the obligations of contracts with and the right of the complainants to contract with their customers to redeem trading stamps and coupons previously given by them. It also impaired the obligations of contracts entered into by the complainants with third parties for the use of the advertising system, including the use of the stamps and coupons and their use in the purchase of merchandise.

In answering these and other like contentions the court now takes the view that even if they be sound, that does not interfere with the authority of the state practically to prohibit the use of the stamps by license taxation. It is within the police power of the state legislature to effect such a prohibition. The power of taxation, which is equivalent to the power to destroy, is again upheld as practically without limit, and hence not subject to the ordinary restrictions imposed by constitutional interpretation. It is interesting to note that in dealing with the question whether the use of the stamps itself is desirable as an economic method or not, the court is obviously in doubt, though leaning to an adverse opinion. Its view is perhaps most directly expressed in the following statement:

There must, therefore, be something more in it than the giving of discounts, something more than the mere laudation of wares. If companies—evolved from the system, as counsel say in justification of them—are able to reap a profit from it, it may well be thought there is something in it which is masked from the common eye and that the purchaser at retail is made to believe that he can get more out of the fund than he has put into it, something of value which is not offset in the prices or quality of the articles which he buys. It is certain that the prices he pays make the efficiency of the system and the fund, if we may individualize it, out of which the cost of the instruments and agents of the system must be defrayed and the profit to all concerned paid. The system, therefore, has features different from the ordinary transactions of trade which have their impulse, as we have said, in immediate and definite

desires having definite and measurable results. There may be in them at times reckless buying, but it is not provoked or systematized by the seller.

It is as yet uncertain how far these decisions will in practice operate to interfere with the widely extended use of the coupon or trading-stamp method of advertising or stimulating sales by larger concerns doing interstate business. The method has already attained a large development in certain lines of business, particularly in the retailing of tobacco.

THE PHILIPPINE NATIONAL BANK

Action on the part of the Philippine government for the creation of a national bank is the result of a long period of evolution. For some years past the Philippine government has carried on an agricultural bank. It has also advanced funds to provincial governments and to private enterprises of certain kinds for the purpose of assisting in the economic development of the Islands. In addition to these undertakings it has performed certain foreign exchange operations through its treasury. These, taken together, constitute a considerable volume of banking operations, and some months ago it was thought best to consolidate them and to establish an institution to be known as the Philippine National Bank, with a definite capital but with its stock owned by the government, to carry on these functions for the future. The measure in question was passed in the early days of February, just before the adjournment of the Philippine legislature, and immediately thereafter the following cablegram was received by the Bureau of Insular Affairs from the Philippine government:

Bank bill as enacted finally provides \$10,000,000 capital. Government to purchase majority stock: 60 per cent payable now; balance in annual instalments. Three classes operations: first, real estate; second, liquid; third, miscellaneous. Real estate bonds to be issued against first class, circulating notes to be issued against second class, but never to exceed 60 per cent capital and surplus. Bank also may issue notes against gold; may establish branches in provinces and the United States.

Mr. H. P. Willis, secretary of the Federal Reserve Board, who had been requested to draft a bill creating this bank, and had acted as adviser to the government of the Philippines in connection with the measure, has been named president of the new institution and has gone to the Philippines on a six months' leave of absence to organize the bank.

The function of the new bank is (as may be seen from the facts just mentioned) twofold: (1) to supply long-term loans on real estate, thus aiding in the development of the agricultural resources of the Islands,

and (2) to do a general commercial banking and foreign exchange business. In carrying out the first of these objects the bank will necessarily find its success conditioned in some degree upon its ability to sell to investors, both in the Islands and in the United States, bonds secured by the deposit of real-estate mortgages in trust. In fulfilling the second of its purposes it will naturally seek to arrange for the rediscount of its paper with American banking institutions. The Philippines, in common with other oriental countries, have been dependent for accommodation on British banks and their branches. Since the opening of the European war these banks have been obliged to limit the scope of their operations. The archipelago, therefore, has been placed in the position of looking elsewhere for new banking capital with which to further its commercial development. American banks, with one exception, are without branches in the Islands and indisposed to establish any; but the results desired—closer union with the American banking system and development of methods for gaining the support of American capital—may be attained by the reverse process of creating an insular bank with branch representation in the United States. The problem presents a special phase of the general question of advancing American foreign trade and of consolidating it under American financial control, instead of under the control of foreign banks, at the same time securing to the Philippines the local support they need.

CORRECTION

In the first instalment of Mr. Carpenter's article, "The Westinghouse Electric and Manufacturing Company, The General Electric Company, and the Panic of 1907," at page 248 of the *Journal of Political Economy* for March, 1916, Mr. C. A. Coffin, late president of the General Electric Company, was inadvertently referred to as "the president, the late C. A. Coffin." Mr. Coffin is, in fact, at present serving as the chairman of the Board of Directors of the General Electric Company. He has retired as president of the corporation, and his place has been taken by Mr. E. W. Rice, Jr.